

To: LaPoma, Jennifer[LaPoma.Jennifer@epa.gov]; Vaughn, Stephanie[Vaughn.Stephanie@epa.gov]
Cc: Willard Potter[otto@demaximis.com]; Flanagan, Sarah[Flanagan.Sarah@epa.gov]; Dawn Monsen[dawn.monsen@klgates.com]; Karyllan Mack[Karyllan.Mack@klgates.com]; William Hyatt[william.hyatt@klgates.com]
From: Robert Law
Sent: Mon 2/24/2014 4:17:13 PM
Subject: RE: RM 10.9....

Stephanie:

After you and I spoke - I called Karen Greene at NMFS and left a message of why I called and asked her to call me back. I'll let you know if I need any help

R/
Rob

Robert Law, Ph.D.
de maximis, inc.
rlaw@demaximis.com
Voice: 908-735-9315

Fax: 908-735-2132>>> "Vaughn, Stephanie" <Vaughn.Stephanie@epa.gov> 2/24/2014 10:39 AM
>>>

Hi Rob,

According to the CPG's final Design Report, table 2-3 says, under Magnuson-Stevens Fishery Conservation and Management Act:

"The NMFS was consulted by NJDEP DFWS. A fish window prohibiting dredging from March 1 to June 30 has been imposed. Dredging and capping will occur outside of the designated fish window in order to meet these requirements."

Your statements below contradict the final design. This is a NMFS issue. We want the work to proceed, but it is the CPG's responsibility to contact NMFS. You may do this directly, or through NJDEP as was done last time. If NMFS is not supportive of the work, then EPA will step in and speak to them. But the CPG needs to take the first step.

I am generally available today if you want to discuss.

Thanks,
Stephanie

From: Robert Law [mailto:rlaw@demaximis.com]
Sent: Saturday, February 22, 2014 4:42 PM
To: LaPoma, Jennifer; Vaughn, Stephanie
Cc: John Rolfe; Willard Potter; Stan Kaczmarek
Subject: Re: RM 10.9....

Stephanie and Jennifer:

We checked and Hill says they did not contact NMFS during the drafting of the design documents.

You may recall during the November 2012 meetings with NJDEP, they said they were handling all such contacts. The DEP also said that the fish window was likely to become a condition of whatever AUD they produced. The CPG is not aware of that being a condition of the issued AUD. The CPG's waterfront development permit from the NJDEP and the Tidelands Commission license do not mention a fish window.

This leaves only the Army Corps Nationwide Permits as applicable requirements (ARARs) as mentioned in CPG's letter to EPA.

As it stands - EPA is in the best position to resolve prior to February 28; please let us know how you would like us to proceed. Maybe we should talk on Monday.

R/

Rob

Robert Law, Ph.D.
de maximis, inc.
rlaw@demaximis.com

Voice: 908-735-9315
Fax: 908-735-2132

>>> "Vaughn, Stephanie" <Vaughn.Stephanie@epa.gov> 2/21/2014 11:54 AM >>>

Hi Rob,

Could you please contact whoever you contacted previously at NMFS immediately about the fish window issue? We will do the same, but the CPG should really take the lead on this.

Do you recall who you contacted, or who NJDEP contacted? We looked at the Tierra SCRAP and found that they worked with Karen Greene and Stan Gorski at the NMFS Highlands NJ office. All the details of their consultation with NMFS are in the report, and the correspondence can be found in Appendices C and D. I know you looked at this report when developing the RM 10.9 removal action plans, but for ease of reference, here's a link:

<http://passaic.sharepointspace.com/Public%20Documents/Phase%201%20SRCAP%20Final%205-12.pdf>

Please keep us posted on what you're doing and the results so we can coordinate appropriately. And let me know ASAP who you are contacting.

Thanks,
Stephanie